

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID C. THACKER,

Plaintiff,

v.

AT&T CORPORATION, et al.,

Defendants.

No. 2:20-cv-00255-KJM-CKD PS

ORDER

(ECF Nos. 29, 35)

Presently before the court is plaintiff's motion to compel from defendant AT&T¹ further responses to his first set of interrogatories, requests for production, and requests for admissions. (ECF No. 29.) The parties filed a joint statement regarding this discovery dispute (ECF No. 31), and arguments on the matter were heard on November 18, 2020 (ECF No. 36).

Plaintiff seeks to compel supplemental responses to Interrogatories Nos. 1-3, 8, 11, 15-19; Requests for Production Nos. 7-17; and Requests for Admission Nos. 8-9 and 30-31. On November 12, 2020, after filing the joint statement but before the hearing, AT&T served such responses. (See ECF No. 34 at 2.) That timing has deprived the court of the ability to substantively rule on plaintiff's motion to compel, which is now moot in light of the newly served

¹ Defendant states that its title is AT&T Mobility, LLC, and that it has been incorrectly sued as AT&T Corporation. (ECF No. 21 at 1.) The court refers to this defendant simply as AT&T.

1 supplemental responses.² The parties are therefore instructed to meet and confer regarding any
2 remaining disputes about the supplemental responses. Plaintiff's motion is denied without
3 prejudice to re-filing in the event that he has a legitimate basis for believing the supplemental
4 responses remain insufficient under the Federal Rules of Civil Procedure.

5 In addition, based on the discussion at the hearing, the court finds it appropriate to order
6 the parties to participate in a settlement conference before another magistrate judge in the near
7 future. Instructions for arranging this settlement conference appear below.

8 In the meantime, the court notes that plaintiff's claims against the second defendant in this
9 action, Diversified Consultants, Inc. ("DCI"), are now stayed pursuant to 11 U.S.C. § 362,
10 following the November 2, 2020 order of the bankruptcy court in DCI's Chapter 7 bankruptcy
11 proceeding. See In re: Diversified Consultants, Inc., No. 3:20-bk-01311-CJJ (Bankr. M.D. Fl.)
12 (ECF No. 106).

13 Finally, as discussed at the hearing, AT&T has filed a defective motion for entry of a
14 stipulated protective order. (ECF No. 35.) That motion is denied without prejudice to refile a
15 proposed stipulated protective order that complies with Local Rule 141.1.

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26 ² The parties are cautioned that repeating this mistake—serving supplemental discovery responses
27 after submitting a joint statement describing the parties' positions on the original responses,
28 without withdrawing the discovery motion or otherwise notifying the court prior to the hearing—
will result in sanctions to avoid such inefficiency in the future.

Accordingly, IT IS HEREBY ORDERED that

1. Plaintiff's motion to compel (ECF No. 29) is denied without prejudice;
2. The parties shall **within 60 days** of the date of entry of this order contact the courtroom deputy for Magistrate Judge Kendall J. Newman at awaldrop@caed.uscourts.gov to arrange the scheduling of a settlement conference;
3. All claims against defendant Diversified Consultants, Inc., are stayed pursuant to 11 U.S.C. § 362; and
4. Defendant AT&T's motion for protective order (ECF No. 35) is denied without prejudice.

Dated: November 18, 2020



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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